

# Oregon District Attorney Funding



Prepared by the Criminal Justice Foundation

## Summary

Oregon District Attorney face major financial shortfalls, which affect their capability to enforce Oregon laws.

The 2000 Report On District Attorney Finance In Oregon, published by the Oregon Association of Counties, in cooperation with the Oregon District Attorneys Association and the Oregon Department of Justice, confirms that Oregon counties continue to be challenged to meet citizens' expectations of public safety standards, while doing so with ever increasing budget demands, and decreasing support from Oregon's General Fund.

Previous sources of funding for counties, in the form of National Forest and O & C Receipts, have dropped dramatically, placing a further strain on an already difficult situation (data source, 1999 and 2000 Report on District Attorney Finance In Oregon). For some jurisdictions, grant funds have helped cover immediate revenue shortfalls, but are of limited duration, and are not the long-term, sustainable sources necessary to solve the problem.

The result is an additional burden for law enforcement and prosecutors. In some cases, offenders are referred to diversion, or similar alternative programs. In others, the unfortunate reality is that the funds do not exist to prosecute the offenses at all.

In state fiscal years 1999-2001, at least 17,000 non-violent misdemeanors, and misdemeanor and felony failure-to-appear cases, were not prosecuted because the staff resources did not exist.

Projections for fiscal years 2001-2003 are equally grim. Continued budget shortfalls will create additional cases that will not be prosecuted, first time and repeat offenses are anticipated to increase, and overall crime rates are expected to climb as well.

## History

Because of the growing need for state financing for District Attorney prosecution in Oregon, Senate Bill 6 (chapter 715, 1997 Oregon Laws) directed the Oregon Department of Justice to prepare a study of District Attorney finance in Oregon for the Legislative Assembly's 1999 regular session. The study took into account all costs associated with the operations of District Attorney prosecution and included personnel services, rent, support services, and other relevant overhead expenses incurred by their respective offices.

## Senate Bill 6 Recommendations

Several recommendations evolved from the study. They were:

1. The state over a period of time, should seek to attain an equal sharing of District Attorney costs with counties.
2. To that end, the state should increase its contribution to District Attorney prosecution costs by \$20,000,000 for the 1999-2001 biennium.
3. The state should distribute its increased contribution to District Attorney prosecution costs on the basis of the number of Deputy District Attorneys in each county, with each county that has no deputy being treated, for distribution purposes, as if it had one deputy.
4. The state should distribute its increased contribution to District Attorney prosecution costs so that 70% of each dollar of increased aid replaces current county contributions to those costs. And, 30% of each dollar of increased aid should be distributed as additional resources for individual District Attorneys to propose for appropriation, as each believes is needed by his or her office, under local budget procedures.

The 1999 regular session of the Legislature Assembly did not increase the state's contribution, nor did it renew the 1997 mandate for the study as provided in SB 6.

However, the Association of Oregon Counties, in cooperation with the Oregon District Attorneys Association and the Oregon Department of Justice, have prepared an update of the study for consideration by the 2001 regular session of the Legislative Assembly.

## Funding Disparities

According to an Association of Oregon Counties study, for the 1997-1998 fiscal year, the total general District Attorney budget was \$47,256,771. For the 2000-2001 fiscal year, the total general budget increased to \$57,072,525 (a 21% increase). However, from the 1999-2000 fiscal year to the 2000-2001 fiscal year, the budget only increased 4%. The total general District Attorney budget for the 1997-1999 biennium was \$97,464,681, and for the 1999-2001 biennium, the total budget was \$112,157,529. This represents a 15% increase.

In comparison, according to the Indigent Defense Services Division, the total indigent defense cost for the 1997-1999 biennium was \$118,955,501, and for the 1999-2001 biennium, the total cost is estimated at \$139,599,793. This represents a 17% increase. Furthermore, the total cost of indigent defense increased 9% between the 1999-2000 and the 2000-2001 fiscal years.

For the 1997-1999 biennium, the total cost of indigent defense was 22% higher than the total general District Attorney budget. For the 1999-2001 biennium, the total cost of indigent defense was about 25% higher than the total general District Attorney budget (see Chart 1). In all, for the 1997-1999 biennium, the total cost of indigent defense exceeded the total general District Attorney budget by about \$21.5 million, and for the 1999-2001 biennium, this figure was about \$27.5 million dollars.

## Research Survey Findings

In addition to the Association of Oregon Counties study of all 36 District Attorney Offices throughout the state, we recently participated in a survey to study the impacts of these budget shortfalls.

The survey sought to determine how many cases were not prosecuted in Oregon during the 1997-1999, and 1999-2001 biennia due to budget constraints, how those cases were prioritized, and the number of repeat offenses.

The survey further sought to establish the anticipated impact of budget constraints during the 2001-2003 biennium, in terms of cases not prosecuted. The survey asked how those cases are prioritized and the percentage of repeat offenses expected.

Twenty District Attorney offices responded to the survey. Survey responses were compiled as a whole, and were not broken out into individual counties, because individual counties expressed concern about publicizing their own non-prosecution situations. Of those 20 counties, it was reported that a minimum of over 17,000 cases were not prosecuted in the 1999-2001 biennium. Additionally, it is estimated, based upon previous data and further budget constraints, a minimum of over 24,000 cases will not be prosecuted in the 2001-2003 biennium.

Respondents noted that in the 1999-2001 biennium 40% to 50% of those offenses were repeat offenses. The 2001-2003 biennium is expected to produce the same, if not a greater, rate of repeat offenses.

Respondents said priority is given to domestic violence, sex offenses, DUII, and ORS 137.717 (Measure 11) predicate offenses for filing. Cases not prosecuted will be prioritized based upon non-violent criteria, such as opportunities for civil remedy, or victim offender remediation programs (VOMP). These cases will include property crimes, misdemeanor and felony failure to appear, and "B" and "C" misdemeanors, except as provided above. First time offenders are also prioritized at a lower level.

Respondents also expressed these estimates are based upon existing levels of budget and commensurate staffing levels. If individual Deputy District Attorney positions are not funded in the next budgeting cycle, the number of cases not prosecuted in some counties will substantially increase based upon individual case loads presently carried by those positions (See Appendix 1).

## Conclusion

The original findings of the 1999 *Report On District Attorney Finance In Oregon*, the subsequent 2000 update of the report, and our survey have given specific and compelling data as to the severity of the problem and the solution necessary to ensure public safety throughout Oregon.

Repeat offenses are expected to be half of the cases that will not be prosecuted in the coming biennium. Without prosecution of those offenses, the message is clear: criminals can get a free pass in Oregon.

## Appendix 1.1

### District Attorney Questionnaire

The following is a sample of the questionnaire that was sent out to all 36 District Attorney offices in Oregon. Of the 36 offices, only 20 responded to the questionnaire. Those responses are listed below in the chart.

*Please complete the following questions and return. The questions are designed to determine the state total of offenses not prosecuted due to budget limitations. The results will not be individually reported by county.<sup>1</sup>*

1. How many cases in your county were not prosecuted, due to budget constraints in the 1999-2001 biennium?
2. How many cases in your county were not prosecuted, due to budget constraints in the 1997-1999 biennium?
3. How were these cases prioritized?
4. How many of those offenses were repeat offenses?
5. How many cases do you estimate the county will not prosecute due to budget constraints in the 2001-2003 biennium?
6. How will those cases prioritized?
7. How many of those offenses do you anticipate will involve individuals who have previous arrests for the same or similar offenses?
8. How many of those offenses do you anticipate will involve individuals who have no previous arrests for the same or similar offenses?

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<sup>1</sup> Only 20 counties participated in the survey. To preserve the anonymity of the survey, the participating counties are not listed. Instead, the 20 counties are represented by an alphabetic letter.

## Appendix 1.2

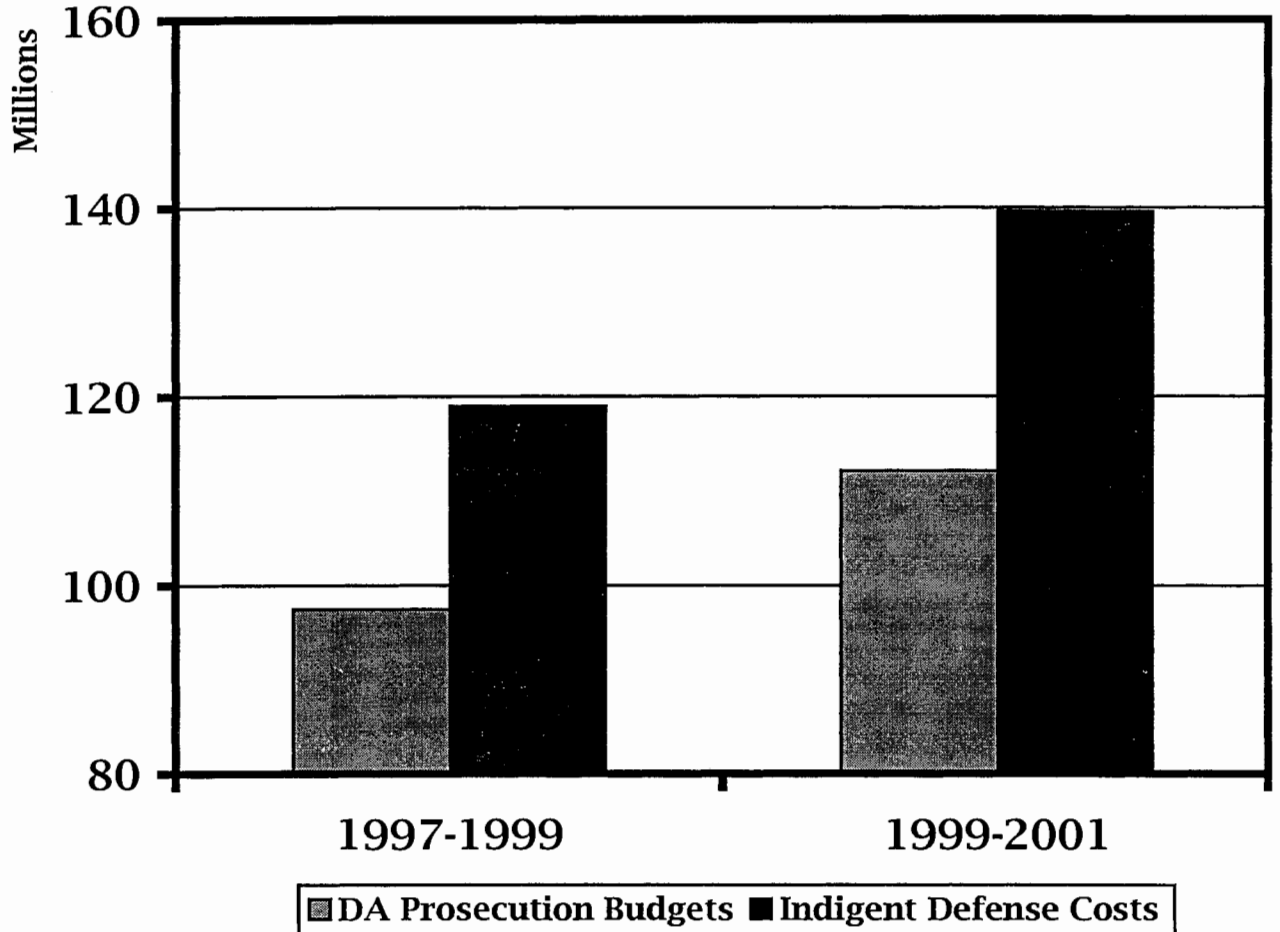
### District Attorney Questionnaire Results

County	Questions								Additional Comments
	1	2	3	4	5	6	7	8	
A	4500	4400	1 <sup>st</sup> offense non-violent misdemeanors	Very few	5000	Same as #3	If DDA cut, 2 <sup>nd</sup> offense non-violent misdemeanors	5000	
B	Approx 50	Approx 50	Non injury	50%	50	Injury v. property	50%	50%	
C	0	0	0	0	0	0	0	0	Our big problem is lack of funds from the state to help county pay for DA's office. We prosecute everything, but on a limited basis.
D	0	Unknown prior DA	N/A	N/A	None	N/A	N/A	N/A	
E	230	350	Property	50%	300	Same as #3	15-30%	85%	
F	3185	1707	Lease serious (will not prosecute)	Unknown	Unknown	Same as #3	Unknown. Many of the cases involve failure to appear on previous cases	Unknown	
G									No budget constraints to speak of. Could probably prosecute FTA-2's & some RICO if had more funding.
H									Using violation treatment instead of prosecution in some cases; lost 1DDA & 1 LA in past 3 yrs.
I	500	300	Property, victimless crimes	50%	800	800	50%	50%	
J	0	0	N/A	N/A	40(+)%	Non-violent w/opp for civil remedy	50%	50%	
K	1	2	Witnesses lived outside Oregon, exp. too high to bring back	None	2	Misdemeanors, felonies, restitution	?	?	

### Appendix 1.3

L	70	20	I don't know what this means	Unknown	100	Same as #3	Unknown	Unknown	
M	0	0	N/A	N/A	100	Not there yet but are at our limit	0	100	
N	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	Not constrained in 97-99; however this year will be another matter.
O	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	
P									We received Rural Domestic and Child Victimization grants. W/out positions funded by grants, would have to decline Class B & C misdemeanors (without funds, 95 cases in 97-99, and at least 78 cases thus far in 99-01).
Q									Do a lot of case load "damage control."
R	100	100	Misdemeanor property	Do not have info	120	Same as #3	50%	50%	
S	1479	5387	Priority given to DUI, domestic, sex offense, M 11; B & C misdemeanors not filed	1%	Remain the same	B & C misdemeanors except domestic violence and sex offenses	Generally, repeat offenders will have a 2 <sup>nd</sup> similar offense filed		
T	0	0	N/A	N/A	1199	Target non-violence cases			
U									

# Chart 1: District Attorney and Indigent Defense Funding Comparison\*



\* District Attorney biennium budgets were estimated by adding the total statewide contributions for the fiscal years 1997-1998/1998-1999 and 1999-2000/2000-2001. See [Report on District Attorney Finance in Oregon](#). Indigent defense costs were based on figures obtained from the Indigent Defense Services Division. Figures are on file with the Criminal Justice Foundation.